

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Mary M. Sicoli, as Personal Representative of
the Estate of Benjamin M. Sicoli, Deceased.

Plaintiff,

v.

The Hartford Insurance Company of Illinois,

Defendant.

**ORDER OF PRELIMINARY
PRETRIAL CONFERENCE**

12-CV-00508(S)(M)

This action has been referred to me by Order of Hon. William M. Skretny for entry of a Scheduling Order, in accordance with Fed. R. Civ. P. ("Rule") 16 and Local Rule 16.

Each party, including any party appearing without counsel, shall appear before me on **September 5, 2012 at 2:00 p.m.** at 2 Niagara Square, Suite 640, Buffalo, New York for the purpose of entry of a Case Management Order as required by Rule 16(b). If the parties wish to participate in the conference by telephone instead of in person, they should contact my secretary Deborah Zamito, at (716) 551-1881 no later than 2 days before the conference and provide a telephone number where they can be reached. The Court will initiate the call.

All parties should note that the case is subject to mandatory pretrial mediation as required by the court's recently adopted Alternative Dispute Resolution Plan ("the ADR Plan") approved by the court's District Judges in their Order dated August 23, 2005. The parties are urged to consult the ADR Plan and a related document, Alternative Dispute Resolution Procedures, copies of which are available from the Clerk of the Court and on the court's website at www.nywd.uscourts.gov.

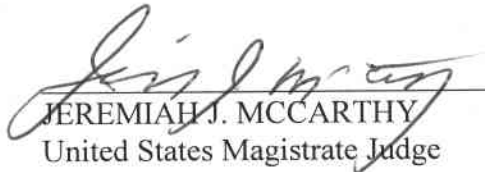
As required by Rule 26(f), the parties shall confer at least 21 days prior to the Rule 16(b) hearing as scheduled above for (1) preparation of the required Proposed Discovery Plan, and (2) to propose to the court a Case Management Order that will establish outside cut-off dates for the further progress of this case (*see* attachment). The proposed Discovery Plan and Case Management Order shall, pursuant to Rule 26(f), be submitted to the court in writing at least 14 days prior to the Rule 16(b) conference. In preparing the proposed Case Management Order, please bear in mind that, absent extraordinary circumstances, dispositive motions are due within 12 months of the Rule 16(b) conference, meaning that all discovery (fact and expert) must be completed prior to that deadline.

All parties should be prepared to address at the conference any anticipated electronic discovery issues that may arise.

The parties are encouraged to consider the attached consent to proceed before a United States Magistrate Judge in a civil case pursuant to Title 28 of the United States Code, Section 637(c). If the parties wish to consent, they must execute the consent form and return it to the Clerk for processing. However, no substantive adverse consequences will result should the parties elect not to consent.

SO ORDERED.

Dated: August 7, 2012


JEREMIAH J. MCCARTHY
United States Magistrate Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

NOTICE OF RIGHT TO CONSENT TO DISPOSITION
OF A CIVIL CASE
BY A UNITED STATES MAGISTRATE JUDGE

PLEASE TAKE NOTICE pursuant to Title 28 U.S.C. §636(c) that, if all parties to this civil action (or their attorneys) consent, a full-time United States Magistrate Judge of this Court may conduct any or all proceedings therein, including the conducting of a jury or non-jury trial and order entry of a final judgment. A copy of the appropriate consent form is attached.

Your decision to consent or not to consent to a referral of your case to a U.S. Magistrate Judge is entirely voluntary. Unless all parties have consented, no District Court Judge or Magistrate Judge is to be informed of anyone's decision to consent or not to consent. *NO consent form will be accepted for filing unless there is tendered a signed Consent form for EVERY party to the action.* Therefore, in actions involving more than one plaintiff, or more than one defendant, one party must collect all the consents and file them together.

Even though all parties consent to disposition of the case by a Magistrate Judge, this opportunity is subject to the calendar requirements of the Court. Accordingly, it is subject to approval by the District Judge assigned to the case.

Pursuant to Title U.S.C. §626(c)(3 & 4) any appeal from a judgment in a case decided by a Magistrate Judge lies directly to the United States Court of Appeals for the Second Circuit unless the parties further consent at the time the case is referred to the Magistrate Judge to appeal to a District Court Judge.

Procedures relating to these matters are set forth in Local Rules 29 and 30 of the Local Rules for the Western District of New York.

MICHAEL J. ROEMER
CLERK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Mary M. Sicoli, as Personal Representative of
the Estate of Benjamin M. Sicoli, Deceased.

12-CV-00508(S)(M)

Plaintiff,

-v-

**CONSENT TO PROCEED
BEFORE A UNITED STATES
MAGISTRATE JUDGE**

The Hartford Insurance Company of Illinois,

Defendant.

In accordance with the provisions of 28 U.S.C. §636(c), the undersigned party or parties to the above-captioned civil matter hereby voluntarily consent to have a United States Magistrate Judge conduct any and all further proceedings in the case, including trial, and order the entry of final judgment. Any appeal from the judgment in this case shall be taken to the United States Court of Appeals for the Second Circuit.

Plaintiff(s): Signature: _____ Date: _____

Print Name: _____

Defendant(s): Signature: _____ Date: _____

Print Name: _____

ORDER OF REFERENCE

IT IS HEREBY ORDERED that the above-captioned matter be referred to a United States Magistrate Judge for all further proceedings and the entry of judgment in accordance with 28 U.S.C. §636(c) and foregoing consent of the parties.

Date

United States District Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CASE MANAGEMENT ORDER

Plaintiff,

v.

Defendants.

Pursuant to the order of Hon. William M. Skretny referring the above case to me for pretrial procedures and the entry of a scheduling order as provided in Fed. R. Civ. P. ("Rule") 16(b) and Local Rule 16, and a conference with counsel having been held on _____, it is ORDERED that:

1. In accordance with Section 2.1A of the Plan for Alternative Dispute Resolution,¹ this case has been referred to mediation.
2. Motions to opt out of ADR shall be filed no later than _____.
3. Compliance with the mandatory disclosure requirements found in Rule 26(a)(1) will be accomplished by _____.
4. The parties shall confer and select a Mediator, confirm the Mediator's availability, ensure that the Mediator does not have a conflict with any of the parties in the case, identify a date and time for the initial mediation session, and file a stipulation confirming their selection on the form provided by the Court no later than _____.

¹ A copy of the ADR Plan, a list of ADR Neutrals, and related forms and documents can be found at <http://www.nywd.uscourts.gov> or obtained from the Clerk's Office.

5. All motions to join other parties and to amend the pleadings shall be filed no later than _____.

6. The initial mediation session shall be held no later than _____.

7. All fact discovery shall be completed no later than _____.

8. Each party intending to offer the testimony of an expert in connection with any issue as to which it bears the burden of proof (including claims, counterclaims, cross-claims or affirmative defenses) shall identify such expert(s) and provide reports pursuant to Rule 26 no later than _____. Each party intending to offer other expert testimony (*i.e.*, testimony in response to expert testimony previously designated by an opposing party, or in support of an issue as to which the offering party does not bear the burden of proof), shall identify such expert(s) and provide reports pursuant to Rule 26 no later than _____.

9. All expert depositions shall be completed no later than _____.

10. Dispositive motions, if any, shall be filed by all parties no later than _____. Such motions shall be made returnable before Judge Skretny unless the referral order grants the Magistrate Judge authority to hear and report upon dispositive motions.

11. In the event that no dispositive motions are filed, a status conference is set for _____ at 9:00 a.m. before Judge McCarthy. The parties may participate by telephone upon advance notice to chambers. The court will initiate the call.

12. Mediation sessions may continue, in accordance with Section 5.11 of the ADR Plan, until _____. The continuation of mediation sessions shall not delay or defer other dates set forth in this Case Management Order.

No extension of the above cutoff dates will be granted except upon written application, filed prior to the cutoff date, showing good cause for the extension.

SO ORDERED.

Dated:

JEREMIAH J. MCCARTHY
United States Magistrate Judge